

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA

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5 UNITED STATES OF AMERICA

6 v.

Docket No. 5:09-CR-216-FL

7 DANIEL PATRICK BOYD

New Bern, North Carolina
August 24, 2012

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10 **TRANSCRIPT OF SENTENCING HEARING BEFORE**
11 **THE HONORABLE LOUISE W. FLANAGAN, DISTRICT JUDGE,**
12 **UNITED STATES DISTRICT COURT**
13 **FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

14 APPEARANCES:

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24 Recorded stenographically by machine shorthand.
25 Transcript produced by computer-assisted technology.

1 (Appearances, Continued)

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P R O C E E D I N G S

(The following proceedings were held at the United States Courthouse, 413 Middle Street, New Bern, North Carolina, before the Honorable Louise W. Flanagan, District Judge, for the Eastern District of North Carolina, on August 24, 2012, at 3:46 p.m.)

(Attorneys Bowler and Kellhofer are present for the government. Attorneys Godwin and Graves are present for the defendant. The defendant is present.)

* * *

THE COURT: All right, let the record reflect Mr. Boyd's here and present with counsel. The government's represented, as well.

Who will be speaking primarily for Mr. Boyd?
Ms. Godwin?

MS. GODWIN: Yes, your Honor.

THE COURT: Okay. Have you had enough time to review the presentence report and talk with Mr. Boyd to be ready today?

MS. GODWIN: I have, your Honor.

THE COURT: I've read the -- the psychological reports that were contributed. I believe I saw Dr. Corvin out there. Are you anticipating calling any witnesses?

MS. GODWIN: Your Honor, Dr. Corvin and Dr. Hilkey are here, and they are available to the Court

1 in the event that the Court had any questions for them,
2 particularly about Mr. Boyd's mental and emotional health.

3 THE COURT: Well, I have read the memorandum,
4 I've read the doctors' reports, but I certainly don't want
5 to, while we're starting later than you might have
6 thought, preclude you from departing from your manner of
7 presentation.

8 If you -- if you didn't plan on calling them, I
9 don't think it will be necessary for me to ask them
10 questions based on my understanding of their writings. I
11 feel pretty confident I understand their positions.

12 But if you want to call them and develop anything
13 else, I'm not going to tell you you can't.

14 MS. GODWIN: I understand, your Honor, and we
15 did not anticipate calling --

16 THE COURT: Okay.

17 MS. GODWIN: -- them, unless the Court had
18 questions.

19 THE COURT: Okay.

20 Mr. Boyd, I read your letter that just came in, and
21 I read other letters, as well, including from Dylan and
22 neighbors and other family members. So, I have benefit of
23 this information.

24 But I turn your attention and mine to the
25 presentence report. There are no objections, per se.

1 Have you had enough time to review this report and talk
2 with your lawyers to be ready for sentencing?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right.

5 Bnow, with respect to the government's motion, is
6 that going to be requested to be heard under seal in the
7 confidence of a closed courtroom, or not?

8 MR. BOWLER: No. There is one small matter at
9 some point we'd like to just very briefly approach the
10 bench with, your Honor.

11 THE COURT: Okay.

12 MR. BOWLER: But the 5K, itself, we don't think
13 so.

14 THE COURT: All right. With the court reporter
15 coming to the side, I'll invite counsel forward.

16 * * *

17 (Sealed sidebar proceedings appear under separate
18 cover.)

19 * * *

20 THE COURT: I have familiarity with the offense
21 conduct at issue, having presided now over two trials for
22 approximately a total of ten weeks, all together. And I
23 have in your case considered especially what the Probation
24 Office has presented here and reflected on the trials, and
25 also on your trial testimony that's been received now

1 twice.

2 I'm familiar with your family background, your
3 health, your education, substance-abuse issues, your prior
4 contacts with the criminal justice system.

5 You find yourself, at the start, in that favorable
6 category of a I. By application of the terrorism
7 enhancement, though, you move very immediately to the
8 criminal history category of a VI.

9 I've reviewed all of this information and note for
10 the record the Court receives the following advice from
11 the sentencing guidelines. And the guidelines are
12 advisory. They're not mandatory. The Court is required
13 to consider their advice, but then moves towards the
14 factors set forth in 18 United States Code, Section 3553,
15 with benefit of the advice of the guidelines, which, in
16 this case, is a term of imprisonment of life, and
17 considers the need for the sentence to promote respect for
18 the law, to discourage this type of conduct, to protect
19 the public, and to provide any needed treatment or care
20 when reflecting on the overarching nature of the offenses
21 at issue and the history that a defendant brings into the
22 courtroom.

23 Count 1 carries with it a maximum term of
24 imprisonment of 15 months. The advice of the guidelines
25 is capped by that, 180 months -- 15 years, 180 months.

1 Count 2 carries with it a maximum term of
2 imprisonment of life, and, as noted, the advice of the
3 guidelines is a life sentence.

4 You're not eligible for probation. Your behavior
5 can be supervised for up to five years on Count 2 and
6 three years on Count 1.

7 The fine could be as much as a quarter-of-a-million
8 dollars. The guidelines suggest a range of between 25,000
9 to 250,000. And there's a \$200 special assessment.

10 You are charged with many other crimes: You are
11 charged with conspiracy to commit murder on Quantico in
12 northern Virginia; you are charged with firearms
13 violations.

14 The government has agreed today to dismiss all of
15 these remaining counts, Counts 3 through 11, at
16 sentencing. And both parties agree that a downward
17 adjustment for acceptance of responsibility is
18 appropriate.

19 The offense level stands at a 43.

20 Now, what else would you have me take up and
21 consider? I believe you have a motion?

22 MS. GODWIN: Yes, your Honor. We had, I think,
23 explained how Mr. Boyd found himself in this courtroom as
24 thoroughly as we could in the sentencing memorandum.

25 I do think that he has a very unique family history.

1 He's got a very unique personality and mental health
2 structure that did leave him particularly vulnerable to
3 being seduced by the extremism.

4 He started out in life with a very chaotic,
5 unpleasant childhood. And his first experience with Islam
6 was through a step-father, and then, later, it was an
7 opportunity for him, as we expressed in the memo, I think,
8 to try to make peace with both his Muslim step-father and
9 his patriotic military father.

10 It's difficult to talk about Mr. Boyd without a
11 great deal of emotion because the experience that
12 Ms. Graves and I have had with Mr. Boyd is undoubtedly the
13 most intimate attorney-client privilege experience I've
14 had.

15 I can tell you that when we first met Mr. Boyd, he
16 was very much the Mr. Boyd that we had heard on the
17 audio. And Ms. Graves and I found that gentleman to be
18 particularly challenging to help. And he told us one day
19 when we came, please don't dread me. And he knew we did,
20 I think, dread the challenging interchanges we had.

21 Over the course of three years, we have argued with
22 Mr. Boyd; we have debated with Mr. Boyd; we have shared
23 and explored the spirituality of life and different
24 religions; we have, at times, laughed with Mr. Boyd.

25 But we have also grieved with Mr. Boyd. We have

1 tapped into what I believe is the true Daniel Boyd, the
2 one that never had a chance, that was fighting to have a
3 chance, that was trying to find himself when he left home
4 and met Sabrina. The Daniel Boyd that was so desperate
5 for approval from the patriarchs in his family; that got
6 swept up in the romanticism of Abdullah Azzam; that went
7 on his great adventure as a young man seeking heroism on
8 the battlefield, to be seen with honor in his parents'
9 eyes; that got to a strange land that he describes as
10 recently as yesterday, in talking with some members of the
11 government, as a very romantic, exciting experience --
12 going into Pakistan and describing the smells and the
13 change in the environment and the culture and the nature
14 of the people. And, looking back, recognizing --
15 recognizing the seeds of a strange theology that was being
16 planted within him that has caused him so much conflict
17 over the course of his life.

18 There was a core Daniel Boyd that was very
19 uncomfortable with the pressure from the theology, and he
20 found his way back to the United States and left the
21 pressure of that theology in the style that he had
22 adopted, that most problems in his life were to run.

23 He and his wife left the Boston area because of the
24 pressures from the Islamic community on the great
25 Saifullah; you know, the white American freedom-fighter

1 that stood with them, and the expectation that he would
2 continue to be a warrior with them.

3 He reared beautiful children. Beautiful children.
4 You've seen two of his sons in this courtroom before you
5 and have had some interaction with them. He's got a
6 daughter and a son that are here today. And I can assure
7 you they are equally as beautiful.

8 I listened as Myron -- Mr. Hill and Mr. Zeszotarski
9 spoke so passionately and emotionally on behalf of those
10 two young men, and it's those same qualities that endeared
11 them to their counsel that we have experienced with
12 Mr. Boyd.

13 Mr. Boyd, over time, became somebody that was
14 actually in direct conflict with what I would believe his
15 true character and nature are. There are a lot of reasons
16 that that happened to him. But there was a time -- and he
17 recalls it as being the happiest days of his life and his
18 family's life, a ten-year window when he had stepped away
19 from the Islamic religion.

20 He's not asking me to do this and he's not here
21 doing this. We're not in any way trying to condemn the
22 religion, itself. He will tell you that 95% of what he
23 had been exposed to in the Islamic religion was a
24 beautiful thing, and it was that beautiful thing that drew
25 him to the religion as a place to seek peace and serenity

1 and comfort, particularly in his times of stress and need,
2 which have been a great many number of times in his life.

3 But he says you've got this 95%, and then there's a
4 5% place where the extremists work that brings the bad,
5 that brings the dark and brings the oppressive. And he
6 got to a place where he couldn't distinguish how do you
7 keep the good and not get the bad. And the more he -- he
8 tried to make peace with those two places in that theology
9 when stress is place on him.

10 He would leave the religion, and then something
11 would happen and he would come back. And he was held up
12 in great regard do to his courage in going to fight as a
13 young man in this, and this Saifullah persona was a place
14 that he could go to when he felt inadequate, when he felt
15 like his life was failing.

16 It was a psychological and emotional vulnerability
17 he had, largely due to the way he was raised and the
18 experiences and the hardships he had.

19 And, ultimately, when he came back into the religion
20 again and got so overwhelmed and consumed with the
21 extremism, it had been after a series of very -- very
22 difficult things. He had almost died from hepatitis-C.
23 He had been taking very serious drugs that his family had
24 told you in their letters were changing the way he acted
25 and thought and behaved. And, at the same time he had,

1 right on the heels of that, this experience with his
2 father. And then, of course, we know about the loss of
3 his son.

4 I thought, when I heard the lawyers talking about a
5 friend who had written a letter on behalf of the sons,
6 noting a change in their appearance after they left school
7 and had come home, and, you know, Daniel was pressing
8 everyone into this very rigid, extreme place. Daniel's
9 clothing had become that way. Daniel's appearance had
10 become that way.

11 Over the years, you could see, because of the -- of
12 the consistency of the surveillance -- you could see the
13 decline in this man. And he didn't understand what was
14 happening to him. His family didn't understand what was
15 happening to him. And when he reached out to the people
16 in the Islamic community that he would go to, they were
17 not steering him away from -- from what he believed --
18 from what he was coming to believe.

19 He sees the FBI's arrest of him as an intervention.
20 He believes that but for their timely arrest of him he
21 could have, and would have, perhaps, destroyed his whole
22 family.

23 I can tell you, in working with him and going back
24 through this audio, it's just been an extraordinarily
25 painful and humiliating experience for him, and he could

1 only take it in small pieces.

2 When Drs. Hilkey and Corvin showed up to see him, he
3 very desperately wanted to understand how he could get
4 himself into such a frame of mind to say and do and behave
5 in the way that he had, and it was like watching a man
6 gasping for air while he's drowning. He was hungry for
7 understanding. He needed understanding. And it was
8 painful.

9 I've heard about how people develop psychological
10 defenses against the pain they're feeling in their lives.
11 I'm sure we all do that at various places on the spectrum.
12 But Mr. Boyd had done that in such an almost impenetrable
13 way with this persona and adopting a different manner of
14 speaking, and keeping people around him, and delving
15 deeper and deeper and deeper into another -- another place
16 in life and in time and in the world, and to watch him
17 work through that has been a remarkable experience.

18 And it is very much like peeling a layer, you know,
19 off of an onion every day, every day, every day, little by
20 little by little, until finally we begin to see the Daniel
21 that we have here in this courtroom.

22 He's made a -- just a -- I've never seen anyone in
23 my career as an attorney -- and I've been reflecting on
24 outside of just my career focus -- but I don't know that
25 I've seen anyone work so very hard to find their way back

1 into a true and clear way of thinking.

2 He has searched his soul spiritually. He has worked
3 hard legally in his cooperation efforts and in trying to
4 understand where he's at, and working as a witness in the
5 case, and working with his sons. That helped him come to
6 the right place. And the work he's done emotionally and
7 psychologically has just been extraordinary.

8 And I would ask the Court to consider those things
9 in a departure. I do think he was uniquely vulnerable to
10 this experience, and, to his credit, has worked hard to
11 understand how that happened, and he worked towards
12 repairing the psychological damage in building up a better
13 understanding of how that happened to him so as not to
14 have that vulnerability again in the future.

15 The doctors will tell you that the progress that
16 he's made psychological in are, in effect, similar to
17 burning a bridge in that he's not likely to go backwards
18 from where he is now, but only forward.

19 Mr. Boyd would tell you that he can see he's got
20 further to go, but it's not nearly as far as he's been to
21 get to this place.

22 I would like the Court to give him a substantial and
23 meaningful departure from the guideline range, and, based
24 partly on the mental health vulnerabilities, partly
25 because of the strong, good father he had been before the

1 extremism had consumed him and led him, and, ultimately,
2 he led his family astray. And I think the fact that he's
3 got a good prognosis, I think, is important, as well.

4 Certainly, the government will make a recommendation
5 based on his cooperation; but I would like the Court to
6 give strong consideration to these factors, as well.

7 THE COURT: This is under 5H1.3, a departure
8 based on mental health and emotional vulnerability?

9 MS. GODWIN: Yes, ma'am.

10 THE COURT: All right. And then considering
11 aspects of your argument that don't squarely fit into that
12 category, as a motion for a variance under 3553?

13 MS. GODWIN: That's correct, your Honor.

14 THE COURT: Okay. Well, let's -- as far as a
15 basis for departure under the sentencing guidelines, is
16 that the extent of your argument revolving around 5H1.3?

17 MS. GODWIN: Yes, your Honor.

18 THE COURT: Okay. As to that aspect of the
19 defendant's argument, what says the government?

20 MR. BOWLER: We really don't oppose it, your
21 Honor. We think that whatever the reduction ought to be
22 ought to be incorporated within our motion for substantial
23 assistance.

24 THE COURT: Well, I don't allow it under 5H1.3.
25 I don't find the vulnerabilities that have been described

1 so exceptional as to warrant a departure. So, that would
2 be the first step in determining the advice of the
3 guidelines; though I certainly will reflect on it again,
4 his parenting and other aspects under 3553. But I think
5 that's where we are.

6 But maybe you want to make your motion now before I
7 go to 3553 for a departure under the guidelines?

8 MR. BOWLER: Yes. We thought it most efficient
9 for us to make a single presentation to the Court as to
10 our position, including the motion for substantial
11 assistance and our ultimate recommendation for a sentence.
12 But if the Court wants us to bifurcate it --

13 THE COURT: No. That would be efficient.

14 MR. BOWLER: Okay. I think it's been -- coming
15 to this point and analyzing what to recommend to the Court
16 and how to describe how we see this defendant's standing
17 in the court's been one of the more difficult, complicated
18 and gut-wrenching experiences any of us have had in a
19 sentencing phase, your Honor. I think very few people
20 make it back from where Mr. Boyd had gone mentally,
21 emotionally, spiritually and in terms of cooperation to
22 that extent.

23 My own role in the proceeding, I think, requires me
24 to review first the aggravating factors that are
25 undeniably there and that brought us to this position.

1 THE COURT: Well, I -- in speaking about the
2 offense conduct, with which I am familiar, the heinousness
3 of Mr. Boyd's actions are extraordinary. I've heard a lot
4 about the family, but I remember Jude Mohammad's mother's
5 testimony in the first trial, and her searing pain, as she
6 learned her son had been launched to Pakistan by
7 Mr. Boyd. And that resonates in this room today, although
8 she's not here to speak.

9 I think about the families of the defendants that
10 I've sentenced and the avenues that were opened for these
11 men by Mr. Boyd, and the great damage that was wrought.

12 None of us know the consequences of his actions
13 fully when he was in Jordan and who really was on the
14 phone when he was summoned to speak to a cleric, or was he
15 speaking to and what did they do with the information that
16 Mr. Boyd provided.

17 And I think none of us who listened to the news kept
18 moving when we heard that Jude Mohammad was one of the
19 three people supposedly on his way back into America on
20 the 10th anniversary of 9/11 to commit these crimes again.
21 That seems to be nothing more than rumor. But that was in
22 the news.

23 So, obviously, methods of security and monitoring
24 have been changed. No doubt, the government has spent an
25 untold amount of money in this case. And it all gets back

1 to the actions of Mr. Boyd.

2 So, this case is so very difficult to balance that
3 extraordinary depravity and horror that he inflicted
4 against a man coming full circle, whose sons have been
5 treated by the Court in recognition of what the father
6 did, and received, as you may recall, sentences less than
7 what the government advocated at sentencing.

8 But I've reflected on the horror that that man had
9 worked in his family to these impressionable children
10 growing up, and what he did to them and the lives that
11 they were leading that he took away.

12 So, yes, yes, it is a difficult case and a heartfelt
13 case on both sides; but I think it's very appropriate to
14 start with the aggravating factors, and then we'll see
15 where we go.

16 MR. BOWLER: The government agrees with each
17 and every thing the Court has said, your Honor. And we're
18 well aware of it, and we were aware coming into this. We
19 believe that the Court's perceptions and reactions were as
20 you've described for good reason.

21 The defendant formed the hub of the conspiracy. I
22 used that in one of the opening statements. Background is
23 a little bit -- I was not involved in this case at its
24 outset, and was inserted in it, and came to understand
25 what that meant better and better as time went by.

1 The FBI team that put this case together, along with
2 related agencies, was fantastic and patient with me in
3 bringing me fully up to speed, and I appreciate that. My
4 cocounsel has been outstanding.

5 He was the center of the focus. He's clearly
6 bringing -- attracting these young men. He's spreading
7 propaganda. He's ginning them up. He sends his own son
8 out to get Jude Mohammad to the airport to make sure he
9 doesn't not take his trip out there, which reportedly has
10 ended in his death. We are aware of all of that.

11 Those trips to the Middle East were not innocuous.
12 They had some innocuous purposes behind them, also; but
13 they occurred in the context of a continuous feeling out
14 of how do we make contacts and arrange for possible
15 involvement with mujahidin in some different theaters.
16 It's the picture of global jihadism, as Mr. Kohlmann
17 described it much better than I could. And Mr. Boyd was
18 actively caught up in that.

19 Mr. Boyd brought his sons into that. Those two
20 young men, I don't -- the government does not believe
21 would ever have been involved in anything like this had
22 not -- had he not led them into that.

23 He encouraged other young men to go and fight.

24 As the picture evolved and as I became more and more
25 familiar with the details in the case -- albeit true that

1 he was definitely the hub of the wheel in the old analogy
2 as to conspiracy law -- to some extent, my perceptions of
3 that changed a little bit as he was more of a
4 communications hub in that these individual -- he didn't
5 take raw recruits and turn them into radical jihadists.

6 He became caught up in what is barbarism, in the
7 government's opinion -- pure evil, which is this sliver of
8 evil which is radical jihadism -- but he didn't invent
9 it. And, unfortunately, there are many others across the
10 globe, and, unfortunately, others within the United States
11 that have been caught up in.

12 He's not Subasic. He's didn't get involved with it
13 because he's constitutionally enthralled with killing and
14 maiming and abusing people. He came to it out of
15 emotional instability and where -- its role in Islamic
16 theology.

17 It's hard -- I think it's important, as we go
18 through this, to distinguish him from the display the
19 Court just heard in Subasic's multi-hour sentencing in
20 which he denied he fought, and accused --

21 THE COURT: You know, there are a lot of
22 similarities, too. Narcissism. And the broken families.
23 I mean, it's -- there are differences, but there are
24 similarities. I welcome you distinguishing how you think
25 this case is different.

1 MR. BOWLER: There are some similarities.
2 There is -- especially when we first began working with
3 him, we noted the similarities with some -- with --
4 clearly. But there are radical differences.

5 THE COURT: He really believed -- he wanted to
6 die on the battlefield. That was the way to get to
7 heaven. Subasic didn't want to die on the battlefield.
8 He just wanted --

9 MR. BOWLER: Subasic wanted to kill on the
10 battlefield.

11 THE COURT: Uh-huh.

12 MR. BOWLER: Boyd went off at 19, with two
13 babies and a young wife, and made himself available to the
14 cause. He's since exaggerated of his battlefield
15 experiences, but he generally went out there, and my
16 understanding is saw dead bodies, got close enough to
17 artillery fields and mortar fields, that he was hiding
18 behind rocks, and also worked a lot with the refugees that
19 were over there. But the phenomenon of a 19-year-old
20 fellow with two babies and a wife going off to Pakistan,
21 he wasn't getting paid for that, he didn't do it out of
22 some sense of attraction to something approaching sadism,
23 like Subasic. He did it because he thought at the time it
24 was the morally right thing to do in his world.

25 But, yes, the evil he became involved with is the

1 same for both Subasic and he. The motivation is radically
2 different and the capacity, I think, to reform is
3 radically different between Subasic and Boyd.

4 There are other points we haven't mentioned.
5 Mr. Boyd's -- he's the one who accumulated the pile of
6 weaponry. His planning and discussion included go --
7 shoot for the head against the FBI team, which I just --
8 which have brought this -- to capture this evil, and
9 stopped it, and brought this case before the Court, and
10 treated Mr. Boyd with great fairness and dignity as the
11 process is going on.

12 THE COURT: Well, you're highlighting the very
13 extensive nature of this defendant's offense conduct, and
14 you can talk about stockpiling the weapons, the training
15 in Caswell County. There are so many things you can talk
16 about.

17 MR. BOWLER: Particularly poignant is the
18 Barnes & Noble incident, in my own mind. Is that he
19 brought his two sons armed with the implication, if not
20 the expressed instruction, that we were not going to go --
21 that they were not going to go down without a fight, which
22 means his two boys getting shot and killing FBI agents, if
23 they were successful. So, that was -- that's a
24 frightening thing.

25 And I think Mr. -- Mr. Boyd made -- put all these

1 elements together, the propaganda, the weaponry, the
2 exhortation to go forth, and it being this obligation of
3 all Muslim men to wage jihad, and Mr. Boyd was -- became
4 imbued also with the sense that if he couldn't get
5 overseas, it was going to take place right here. And the
6 Court's heard that evidence also. We have to bear all
7 that in mind, and the government does, too, in its role in
8 this.

9 The flip side is these trials would -- if we had not
10 had the cooperation of the three Boyds, would have been
11 longer, more difficult, and the outcomes less certain.

12 Those -- that sea of tapes, which -- recordings that
13 took place, they worked hours on. It greatly streamlined
14 our process of presenting that evidence and making sense
15 of it, too, to the jury, to have them, the participants in
16 it, say I've reviewed this, I was present, this is what we
17 were talking about, this is what we meant.

18 We have met for approximately -- I've lost track,
19 but approximately 15 times with Daniel. Every time it's
20 been for hours, frequently it's been nearly for a full
21 day, over and over. It has been an intense process.

22 It started slowly. He was defensive. He was -- he
23 parsed things. Clearly, what was happening in the tapes,
24 given the context of evidence, was clear, and he would
25 parse it. Well, yes, I knew we were going overseas, but

1 it wasn't in -- it was mostly tourism stuff. We'd have to
2 bring him back. Daniel, this was happening in the context
3 of you're saying this and spreading this propaganda and
4 having this meaning, et cetera. And he would come back
5 around. Yes, you're right. It was also for the purpose
6 of seeking out contacts to enable us to wage jihad over
7 there if we chose to do so. It was a painstaking, slow
8 process.

9 It was obvious -- him listening to his own voice and
10 that sometimes of his sons in his presence on the
11 recordings was bitterly painful to him and to the point he
12 was reduced to tears. Not that he had been captured, but
13 it was genuinely at what he had done, it was our
14 perception.

15 He -- it was a long process and which began with
16 Ms. Godwin and Ms. Graves long before we became involved,
17 months before, but of him confronting what he had become
18 and the evil of it.

19 If not for his plea, he -- well, we arranged also,
20 at his request, could I meet with my sons after he was
21 incarcerated and after he had decided to accept the plea
22 offer that was made to him. And we arranged that.

23 He was instrumental, we believe, in convincing his
24 sons, and essentially giving them permission to cooperate,
25 to enter their own pleas. And he did that knowing that it

1 was going to damage him to some extent. And that played
2 out more later on. But, we believe if he had not
3 encouraged them and counseled them and pushed them to go
4 ahead and let down their defenses, enter into guilty pleas
5 and cooperate, it would not have happened.

6 If he had stood fast, there's a big danger they
7 would have, too. We can't no that for certain, but he was
8 certainly very influential in getting them to cooperate.
9 So, he led his sons into this mess and he also took the
10 courage -- had the courage eventually to lead them, to
11 show them the way out to minimize the damage that was
12 being done to them and to help the system deal with the
13 aftermath of everything he had.

14 His participation in the first trial, the Court -- I
15 just wanted to review a few points that I perceived -- I
16 understand the Court was there and has its own
17 perceptions, probably more piercing than my own. His
18 cooperation in that trial helped the government. There's
19 no doubt. All those tapes, the authentication. We would
20 have had, as I started to say before, gone through a
21 lengthy process of establishing the recording gear, the
22 accuracy, the times it's checked, all to establish that it
23 was functioning, that it had never been changed, and
24 whatnot, and we could shortcut that when we could have a
25 participant say, I've listened to this. It's accurate.

1 That's what I said. And that's what he said, that's what
2 I heard.

3 But he was very good on that. He was more halting
4 and still parsing somewhat and vulnerable to cross-
5 examination that was essentially misleading, from the
6 government's perspective. I mean the cross was. And he
7 fell into some of that.

8 And if the Court will recall, I went after him
9 pretty aggressively in redirect after that, and rubbed his
10 face in the recordings about Quantico. And -- but how
11 that first trial ended as to his testimony stuck in my
12 mind to this day. He gets crossed, and -- and I think it
13 was Mr. Ayers, whose a very good trial lawyer and a fine
14 individual, but he overreached a little bit on that, and
15 asked him some question about were you ever going to do
16 any of these things you talked about, was the thrust of
17 the question. And Daniel answered, I have had two years
18 in a cement cell to think about that, and I'm terrified of
19 what I might have done if they, meaning the FBI, had not
20 stopped me.

21 That was remarkable. It was a contribution to our
22 case, but it was also a remarkable expression of honesty,
23 I think.

24 By the second trial, his process of him confronting
25 who he had become and what he had done was much further

1 along. He had made peace that he had become involved with
2 evil. He wasn't parsing. He wasn't -- he felt like -- he
3 seemed to feel no -- less conflict between his loyalty to
4 Islam and that messy -- that radical version of it and
5 what his role now was to cooperate.

6 And, from the government's perspective, he was
7 devastatingly effective against Mr. Subasic. We had
8 instructed him to show respect to Mr. Subasic no matter
9 how disrespectful he's likely to be to you. And, from the
10 government's perspective, his performance was remarkable.

11 I remember numerous occasions in which he says to
12 Subasic -- Subasic would have some abusive, almost
13 unintelligible, question of him, and he would say, are you
14 trying to ask me this. Yes. Yeah, that's what I'm
15 asking. And then it would come back, well, what was
16 happening at that time was X, Y and Z.

17 Our own perception was largely, when Daniel starts
18 out in our interviews, he was minimizing, he was taking
19 things in isolation and parsing. By the time we were
20 finished, he was straightforward and cooperative as to the
21 best of his ability. And he spent hours reviewing those
22 recordings and finding corrections to us. But, from our
23 perception also, he tried to be scrupulous about not
24 saying, well, look, I think you're wrong. I see why
25 you're -- you think that's what we were talking about on

1 these tapes, but this was more harmless. This is not
2 really -- whichever the other codefendant we might be
3 referring to at the time, that's not what the thrust of
4 this conversation was. It was more really about this.
5 Was there overtones of that? Maybe. But the heart of it
6 was about something else. And we would drop it, or move
7 on, or we'd have a better perspective on it and not
8 present it as -- on the point we thought it was pertinent
9 on.

10 He really had scrupulous sense of telling the whole
11 truth, but not just saying anything we wanted. That was
12 our perception.

13 We have -- unfortunately, we doubt this is the last
14 case of this sort, probably before this Court and
15 certainly before other courts within the country. And to
16 have someone so deeply embedded that's come so far, we
17 have a big institutional interest in having them reap some
18 benefit from that.

19 The government needs to defend -- needs to be and
20 needs to be perceived as a fierce opponent if you fight it
21 and try to lie and dissemble and cover up serious criminal
22 conduct. But we also want to be seen as an effective ally
23 if you can admit your own faults, your own conduct, and
24 fully cooperate. Because we have to -- to effectively
25 fight this fight, we need people from inside these

1 circles, and they're difficult to get.

2 We want -- these cases and the results of the
3 sentencing on all the different cases make their circles
4 through the defense bar and through, I believe, the bad
5 guys' awareness to a remarkable extent. It's all these
6 things that we think need to be balanced.

7 The conduct was horrific. I think it could --
8 clearly, it could have, at various points in time,
9 exploded into true violence, leaving dead on both sides,
10 and maiming, and horrific scenes. Thank God, it didn't.
11 Also the transformation, we believe, is sincere. We don't
12 believe he's a future threat.

13 Subasic -- we think his transformation, that
14 description that he now believes this is a corrupted
15 ideology, is sincere. We compliment the defense counsel
16 on another point. They made available to the government,
17 the psychiatrists. And we had a session with them, both
18 Mr. Kellhofer and myself yesterday, of some length. And
19 we were struck by how we really didn't have points of
20 contention. Our perceptions of his sincerity on other
21 points, his character flaws that got him into this mess in
22 the first place, this devolution which took place in his
23 personal life which constituted something of a perfect
24 storm, all our perceptions were about the same. We're
25 really not, in terms of the factual presentation to the

1 Court, adverse to the defense at this stage.

2 But -- and we do -- we can't diminish the
3 egregiousness of the conduct, and we don't regret
4 prosecuting Mr. Boyd. He needed to be charged. He needed
5 to be prosecuted. This needed to be stopped before it
6 became something -- became a violent outburst.

7 He had a role in Jude Mohammad going overseas and
8 very possibly being dead today because of it. There are
9 some references on the tapes to others that were involved.
10 We don't really know too much about them or if that was
11 puffery at the time.

12 THE COURT: You haven't figured that out?

13 MR. BOWLER: These other names I don't think
14 Mr. Boyd remembers. We'd listed a bunch of names, and we
15 don't have final -- I don't think we'll ever know, and I
16 think he'll tell us if he knows. But some of that was
17 puffery, I think, and he did exaggerate his role overseas
18 and his role otherwise, and this belief in the magical
19 events that happened overseas was essentially just bold
20 talk, your Honor. Exaggeration, some of it, we think.

21 We have given a lot of thought to all of this. Our
22 recommendation to the Court, if the Court is willing to
23 hear it, would be that he be sentenced to approximately 18
24 years in prison.

25 THE COURT: Okay. Well, there's sufficient

1 basis on the record. Without wanting to short-circuit the
2 defendant's presentation, certainly, please present
3 anything that would be helpful in understanding the scope
4 of your client's helpfulness. But based on what I've
5 heard from the government and what I've observed, there is
6 basis to allow the motion, and I do.

7 What else would you like to say in furtherance of a
8 sentence that's sufficient, but not greater than
9 necessary. And then, Mr. Boyd, I'll certainly give you
10 the chance to speak.

11 MS. GODWIN: I have one thing I would like to
12 comment about. The young men that came -- and I think the
13 government agrees with this -- that they came to Mr. Boyd
14 because they shared those beliefs, not because he sought
15 them out to radicalize them. I do think that's important.

16 He did have a role with Jude, but he was not the
17 only one. There were other individuals influencing Jude
18 that were unrelated to Mr. Boyd.

19 And Mr. Bowler makes a very good point. Mr. Boyd
20 did not invent extremism. He did not go and search in
21 life for an extremist view that would bring him to this
22 place in life. He did not intend, as he was growing and
23 developing this beautiful family, to destroy them. That
24 had not been his goal. And I do believe that extremism
25 does prey on the vulnerable. And Mr. Boyd was, in fact,

1 vulnerable. And he has suffered and will pay a price for
2 that. But he has suffered a great deal, as well as those
3 that he has impacted by the spreading of the extremism
4 during this time period.

5 And I would like the Court to understand that, in
6 some ways, Mr. Boyd had allowed himself to become
7 victimized before he was victimizing other people. He was
8 becoming more and more oppressed himself about what he
9 believed the religion demanded of him, and, in turn, found
10 it a duty to press that down into his family and to other
11 people. But he was feeling that same dark oppression that
12 you speak about when you observe his actions with other
13 people. I mean, it was coming into his head, and he was
14 feeling that same oppression.

15 He was burning his guitar because music was not
16 allowed in the religion. He was canceling his health
17 insurance because health insurance was not allowed in his
18 religion. There were things that he was depriving himself
19 of because he believed at that time in his life that
20 that's what was expected of him as a good Muslim. And
21 he's destroyed, you know, what he had, as well as the
22 damage he's caused other people.

23 And when the time came, Mr. Boyd did find himself,
24 and he did the honorable thing, I think. And, as he's
25 told us, he knows he let America down; but he is so

1 grateful that America did not let him down.

2 THE COURT: Thank you.

3 Mr. Boyd?

4 THE DEFENDANT: Can you hear me?

5 THE COURT: Uh-huh.

6 THE DEFENDANT: I would like to make that
7 point, actually --

8 THE COURT: Now I am having a little trouble
9 hearing you.

10 THE DEFENDANT: It's my fault. I'm sorry.

11 I would like to have made that point specifically
12 about -- I've had three years now. A lot of it's been in
13 isolation. I'm not complaining about that. It's been
14 tremendously beneficial, actually. I've never had time
15 like that in my life. And I agree with all they've said
16 about I didn't invent this way and it's not some way I
17 went out and sought. It is a way that is very subtly
18 spread and it's not some little tiny radical group that
19 does it. So, I did fall victim to that.

20 I am very sorry for falling victim to that. I don't
21 mean like sorry that I went after it. I'm sorry that I
22 let down that -- that whole -- the whole American spirit.

23 Look, I was raised by people that have always put
24 down America, always put down the system. They were just
25 anti -- almost everything. Anti-establishment. And I

1 used to hide in my heart how much that used to hurt me.

2 And this still took place all the way up to the
3 arrest. I'm battling that inside me. It's not -- it's
4 not some defense. It's just a fact. And it's rampant in
5 my family, and it was rampant in the people I was involved
6 with. And I let that overtake me.

7 And that's why I'm very sorry to everyone; not just
8 you. When I say I'm sorry to you, I mean I'm sorry to you
9 as my American countrywoman and all of you all as my
10 American men and countrywomen. That I dropped the ball on
11 my responsibility as an American, as a human being. I
12 know that. I know that. I live with it every moment.

13 But it is also that very American spirit that is
14 alive in me that pushed me to do what is correct and to do
15 what is honorable about this. And that has to stand for
16 the reality that it represents. It's our essence of what
17 we stand for. The very honor and integrity that we stand
18 for. It's what is fixing me.

19 And you have my vow, and let the world hear it, that
20 nobody will ever put that down in my presence again. I
21 can't put it any clearer than that.

22 The sorry I feel, I don't have words for you. I'm
23 sorry, I don't know how to express it. It's so deep.
24 It's just so moving and deep.

25 I'm shamed beyond words. And I agree with a lot of

1 what you had to say. I think there are some things that
2 have been misunderstood, but it doesn't take away from
3 what you've described as the heinousness of it. And I'm
4 not here to argue over it. I accept that. I do. And I
5 accept that with that American spirit.

6 I hold no malice. I hold no -- anybody here or
7 anybody, really. I hold no harm for anyone. I take
8 responsibility. I know you have to punish me. I except
9 that. I just hope you really know that that was not me.
10 That was something they I have allowed myself to be
11 become. Therefore, I'm responsible for it. I respect
12 that.

13 I do see what I have done to my sons and my family
14 and others who came around me. I've never denied this.
15 I've just understood it differently as this has gone
16 along.

17 And every single person -- my counsel, Mr. Bowler,
18 Mr. Kellhofer, FBI, the marshals, yourself -- everyone has
19 helped me get back, if you will. And I know I still have
20 some ways to go. I'll never forget that. That is, I
21 think, the greatest victory in this.

22 No matter how much time you give, no matter how much
23 pain came, I can't tell you the pain I feel for Jude
24 Mohammad's mother or my codefendants. But what can I do
25 about that except try to right any of the wrongs from

1 here -- from this point forward.

2 I know there's never a wrong time to do the right
3 thing, and that's the course I've been trying to stick to.
4 But it's not been so clear. It's not -- the way you're
5 speaking about it now is with a very clear mind. And the
6 way everybody understands and the way the FBI had decided
7 to follow me was because they had clear minds listening to
8 it. My mind was not clear. And it's still not all the
9 way. I'm getting there. But, as I get there, I see very
10 clearly that yes, it was the right thing.

11 When I told the FBI, after they arrested me, you
12 saved me, one of them -- he knows who he is -- and he very
13 lovingly told me no, God saved you. But the instrument
14 that I used was our very system and the brotherliness,
15 and, you know, fellow Americanness. It's saving this
16 situation right now.

17 And I just -- I want that known out there that I see
18 that and respect that. And I am one of its champions, or
19 training to be one of its champions, forever. I'm not all
20 the way there.

21 And I do -- I do thank you for all the mercy and
22 compassion you can show. And I know you will. I know
23 you'll do whatever you feel is right. And I accept that.
24 And I can understand that as being your position.

25 I just hope you know that I cannot hurt someone

1 knowingly, and I would never. But I let myself lose
2 touch, and that's how I hurt other people; is that I went
3 out there being something that is incorrect. My family
4 knows it and everyone knows it. And I openly accept it.

5 And I wish I could get all that hurt back, but I
6 can't except trying to right it from this point forward.
7 And I'm committed to that.

8 Please, everyone, as best as you can, forgive me.
9 Just pray for me. I'm doing the best I can.

10 Thank you.

11 THE COURT: Have I heard the defendant's
12 counsel fully as to the sentence?

13 MS. GRAVES: Yes, your Honor.

14 THE COURT: Okay.

15 MS. GODWIN: Your Honor, I would make one
16 comment regarding the sentence.

17 Just before the proceedings, Mr. Bowler, for the
18 first time, told us what his recommendation to the Court
19 would be. And Ms. Graves and I both thought it was
20 very -- very interesting. I had anticipated asking the
21 Court for a sentence of 180 months on Mr. Boyd's behalf,
22 and I was struck by how close that was to Mr. Bowler's
23 recommendation of 18 years.

24 And I think it's a reflection of Mr. Bowler's
25 comment, just in talking with not only Mr. Boyd over this

1 time, but also with Drs. Hilkey and Corvin, and all the
2 conversations we've had that somewhere along the line
3 Mr. Boyd and the government have gotten very close to
4 seeing this situation in a very similar and compatible
5 manner. And it's because they've spent so much time
6 together.

7 Mr. Boyd has come to a place of understanding his
8 culpability and his vulnerability, and the government has
9 come to know Mr. Boyd in his efforts to rehabilitate
10 himself spiritually, morally, and mentally. And I would
11 ask the Court to consider that in fashioning your
12 judgment.

13 THE COURT: Well, I've considered the advice of
14 the guidelines specifically and generally in this case,
15 and the factors set forth in 18 United States Code,
16 Section 3553.

17 It would appear that the need to protect the public
18 from this defendant has been largely mitigated, though
19 it's recognized the defendant needs continued mental
20 health treatment by his own statements here today.

21 He's enjoyed an extraordinary amount of support from
22 the government that he's very capably spoken of. Numerous
23 meetings with counsel; numerous meetings with agents and
24 attorneys. And the support that that's provided to you
25 is, in large part, going to ameliorate itself as you move

1 into the Federal Bureau of Prisons. Whatever opportunity
2 that you get in that system to continue your mental health
3 treatment you should take advantage of.

4 The need to promote respect for the law, the need to
5 discourage this type of conduct, the need for the sentence
6 to reflect the seriousness of the offenses at issue, the
7 Court pauses on these factors.

8 Having considered all of the factors set forth in 18
9 United States Code, Section 3553, pursuant to the
10 Sentencing Reform Act of 1984, the Court imposes a
11 sentence of 180 months on Count 1 and a term of 216 months
12 on Count 2, to be served concurrently, to produce a total
13 term of incarceration of 18 years.

14 Pursuant to the plea agreement, Counts 3 through 11
15 are now dismissed.

16 When you get out of prison, Mr. Boyd, you're going
17 to be supervised for five years. That's three years on
18 Count 1 and five years on Count 2, to run together.

19 If you break any law, federal, state or local,
20 possess a weapon or drugs illegally, you'll be in
21 violation of the Court's judgment.

22 There are some other standard conditions you'll have
23 to abide by and some special ones.

24 I am going to recommend you for continued mental
25 health treatment under the direction of the Probation

1 Office. You'll have to participate in a program approved
2 by it for the treatment of addiction or dependency.
3 You'll consent to warrantless searches and cooperate in
4 the collection of DNA. There's a \$200 special assessment,
5 which is due immediately. Restitution is not an issue.

6 The Court's reflected on the circumstances and finds
7 a fine is appropriate, but that you can't pay a fine
8 within the guideline range, and imposes a fine in this
9 case of \$3,000. The fine is due immediately.

10 Before I explain to Mr. Boyd how he can appeal, does
11 the Probation Office have any changes recommended?

12 PROBATION OFFICER WASCO: No, your Honor.
13 Thank you.

14 THE COURT: All right. Thank you.

15 Does the government have any changes recommended?

16 MR. BOWLER: No. Thank you for hearing us,
17 your Honor.

18 THE COURT: And does the defendant?

19 MS. GODWIN: Your Honor, I'm not sure if I
20 heard this. Did you make a recommendation for drug
21 treatment?

22 THE COURT: I made a recommendation that you
23 participate in a program approved by the probation office
24 for the treatment of addiction or dependency, which would
25 include urinalysis testing.

1 MS. GODWIN: I would like that he be
2 recommended for drug treatment within the BOP. He has a
3 history of drug use that only ended as he became more
4 extreme in '04 and '05.

5 And, if the Court could make a recommendation that
6 he be housed close to North Carolina or within North
7 Carolina?

8 THE COURT: I will certainly recommend Butner
9 or as close to North Carolina as possible.

10 MS. GODWIN: Thank you.

11 THE COURT: He has a dependent personality in
12 some respects. Are you thinking that some part of the
13 most intensive substance-abuse treatment program would be
14 helpful in a variety of ways to your client?

15 MS. GODWIN: I do, your Honor.

16 THE COURT: All right. I'll recommend that.

17 MS. GODWIN: Thank you.

18 THE COURT: Now, you can appeal, Mr. Boyd, if
19 you believe there's something very wrong with your
20 conviction or with this sentence. But you need to move
21 quickly. And you have given up a number of your appeal
22 rights. And these waivers have been generally held
23 enforceable. If you believe they're not, you can present
24 your theory to the Court above, with very few exceptions,
25 as noted. You've got to move quickly. You've got 14 days

1 from the date the judgment goes on the docket.

2 If you cannot afford the cost of an appeal, you can
3 apply for permission to appeal for free. And, if you
4 request, the Clerk will prepare and file the appeal
5 paperwork.

6 Does your client have any questions about the
7 judgment or about his appeal rights?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: All right. You'll get credit for
10 time served. I'll put you back in the custody of the
11 Marshals Service.

12 Thank you.

13 MS. GRAVES: Thank you, your Honor.

14 MS. GODWIN: Thank you.

15 (Whereupon the proceedings concluded at 4:49 p.m.)

16 * * *

17 **CERTIFICATION**

18 I certify that the foregoing is a correct transcript
19 of the record of proceedings in the above-entitled matter
20 to the best of my skill and ability.

21

22 /s/ Harold M. Hagopian
23 Official Court Reporter

November 23, 2014
Date

24

25